United Nations A/HRC/31/NGO/143

General Assembly

Distr.: General
22 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 6
Universal Periodic Review

Written statement* submitted by the Foundation for Aboriginal and Islander Research Action Aboriginal Corporation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02652(E)

Please recycle

UPR - Australia

The Australian Government continues its terrible record of breaching the fundamental human rights of the Aboriginal Peoples and Torres Strait Islander Peoples.

The recent Universal Periodic Review (UPR) examination of Australia in 2015 clearly reveals that the Australian Government has not made a sincere effort to address the deprivation, poverty, ostracism and disempowerment of the first peoples of Australia as recommended in 2011. The Australian Government has not embraced the principles of the UPR and demonstrated a disregard towards demonstrating commitment to improved human rights through the peer review process.

It is clear that the Australian Government relies upon the status that Australians in general enjoy the highest standards of living, quality of life and freedoms amongst the populations of the world. Australia is seen to be a wealthy and vigorous nation unencumbered by military conflicts and civil disorder within its region. In this context little concern might exist about its human rights performance as a member of global community bound by the United Nations.

However the prosperity and liberalism seen to permeate the Australian standard of living masks the colonial status bound by racism against and oppression of the Aboriginal Peoples and Torres Strait Islander Peoples. For two centuries the British colonies and the subsequent Australian nation have exploited the first peoples of the Australian continent.

From the outset the territories and resources of the first peoples of Australia have been taken and developed without consent, without regard for property rights and without benefit sharing. To achieve this the first peoples suffered massive human costs as colonists expanded across the continent by extermination and annihilation of the Aboriginal Peoples and Torres Strait Islander Peoples. It was genocide as the official records of the British and Australian Governments reveal that they regarded Australia as *terra nullius* until the legal case known as *the Mabo decision* occurred in 1992, 214 years after the incursion.

In evidence the Australian Government has not addressed the historical injustices and the inequalities that are manifest between indigenous and non-indigenous peoples in Australia. Regrettably the UPR process has not encouraged Australia to face its history and obligations towards the first peoples of Australia.

The United Nations has before its human rights bodies all the evidence of Australia's breaches of human rights of the Aboriginal Peoples and Torres Strait Islander Peoples. There have been consistent and countless reports of the suffering of our Peoples and abundant recommendations for correction of the breaches of our human rights. FAIRA believes that all State members of the UN are informed and persuaded of the high-level and urgent need for Australia to find redress for the injustices and inequality against the first peoples. The evidence is before the United Nations.

Further the United Nations has developed the template for addressing the negative impacts of colonisation of the Indigenous Peoples of the world. The UN Declaration on the Rights of Indigenous Peoples is a clear statement that Indigenous Peoples are to enjoy the rights of all Peoples of the world. Those rights are identified in the Declaration on the Rights of Indigenous Peoples, but more conspicuously the obligations upon UN Members are enshrined in Chapter 11 of the UN Charter. This chapter calls upon UN Members to accept 'as a sacred trust' the obligation to promote the well-being of the peoples of non-self-governing territories, and 'to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses'.

FAIRA also makes reference to the annual recommendations, decisions and resolutions which arise from the Expert Mechanism on the Rights of Indigenous Peoples, the Permanent Forum on Indigenous Issues, the Human Rights Council and the General Assembly to promote and protect the rights of Indigenous Peoples. Particularly, in 2014, the UNGA World Conference on Indigenous Peoples established a specific list of actions which Member States should undertake to address the rights of Indigenous Peoples. The UPR process must give full credence to these instruments for development.

The Australian Government must be held to account for its compliance or otherwise of these human rights and political standards which frame the United Nations. While we can expect the UPR examination to bring to account the performance of the UN Member, Indigenous Peoples have every right to insist upon compliance with the standards and procedural parameters upon which the mandate and authority of the United Nations rest. The Australian Government must expect more exposure about its undertakings to promote and protect the rights of the Aboriginal Peoples and Torres Strait Islander Peoples.

FAIRA is most concerned about continuing entrenched racism in Australian political, legal and social life. In conformity with its colonial establishment over Australian territory the Australian Constitution, in force since 1901, does not have acknowledgement of or respect for the existence of and rights belonging to the Aboriginal Peoples and Torres Strait Islander Peoples. In 1967 important amendments were made to remove barriers to counting the first peoples in the Australian population, and to making laws about the first peoples. It is a strong concern that these changes did not amount to removal of race discrimination. Subsequent legal cases have determined that the parliaments of Australia can make laws which are racially discriminatory, and that the parliaments are under no obligation to consult with the first peoples before making discriminatory laws.

In 2010 the Australian Government signalled that it would reform the Australian Constitution to 'recognise' the Aboriginal Peoples and Torres Strait Islander Peoples. This undertaking remains at large and progress is unlikely as a national debate over 'recognition' sinks under intolerant attacks on the first peoples' rights. A change to the Constitution cannot be achieved without a 'double majority' of population votes, and only a small percentage of changes have ever succeeded under this procedure.

Complaints by first peoples of racial discrimination are increasing and political leadership in Australia seems more willing to consider and enact oppressive laws that breach the rule of law by targeting the first peoples. While the Racial Discrimination Act 1975 (RDA) remains an important deterrent to racial discrimination the legislation is not consistent with the provisions for 'special measures' as established in the international Convention on the Elimination of All Forms of Racial Discrimination.

While the Convention is deemed to protect Indigenous Peoples from being subjected to laws which are made without regard to their interests or benefit, and which are put in place without their specific consent, the Australian courts have ruled that the RDA does not require restraint in the interests of the Aboriginal Peoples and the Torres Strait Islander Peoples, and that the national parliament is unfettered by the Constitution or the legal system to make and enforce laws which are racially discriminatory. The parliaments of the States and Territories are restrained only by the limitations of the RDA, unless the national government overrides the RDA through legislative action.

The preceding information provides an introduction to the systemic racism in the political and legal system in Australia. While the Australian Government remains unfettered in making racially discriminatory laws it does not use these powers widely. Legislative discrimination is limited to the rights and interests of the first peoples and, more recently, to non-citizens of Australia such as refugees.

There are numerous and obvious examples of racial discrimination against the Aboriginal Peoples and the Torres Strait Islander Peoples. These are mostly noticed in the statistics of social disadvantage, such as poverty, housing, employment, health, education and dysfunction. A blatant indicator of racial discrimination against the first peoples is the extent of incarceration of the first peoples. These statistics were presented by civil society organisations during the preparations for the UPR examination of Australia.

While imprisonment in Australia shows only 194 persons per 100,000 are in imprisonment, for the first peoples the statistic is 2,240 per 100,000. This fact is irrefutable in exposing racism in the system.

As a final point, the Australian Government steadfastly refuses to engage with the representatives of Indigenous Peoples in Australia. Despite extensive claims to positive effort for the first peoples the Australian Government is holding a centralised and alien system of government over the first peoples. All financial support paid to indigenous organisations and communities restrict the rights of the people to make their own decisions. The administrative system keeps central government in control of local actions and choices.

Aboriginal and Torres Strait Islander Peoples established the National Congress of Australia's First Peoples (Congress) in 2011, after the Australian Government, under conservative administration, dismantled the Aboriginal and Torres Strait Islander Commission in 2005. The conservative administration resumed control of government in 2013 and subsequently shut down all financial support to the Congress.

The Australian Government now claims to consult locally with Aboriginal and Torres Strait Islander communities but that claim is not believed or supported by the people themselves.

The UPR process must be able to detect the oppression of peoples in their own territories and be able to seek remedy to the denial of self-determination.

United Nations A/HRC/31/NGO/144

General Assembly

Distr.: General
22 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Auspice Stella, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02653(E)

Please recycle

The Mapuche Human Rights Situation

The Mapuche people is a pre-Columbian nation that has traditionally lived in the south of the area now occupied by the states of Chile and Argentina. It was the only indigenous people in South America to achieve political independence from Spain, exercising its territorial sovereignty and self-determination before the declaration of independence, in 1810, of those states.

The autonomy of Spain was granted by the Treaty of Killin -1641- this treaty was subsequently ratified by Spain in thirty treaties, including Chile-after independence. Argentina also recognized the border with the Mapuche Nation fortifying throughout its territory.

The Mapuche people have been fighting for the return of their ancestral territory since being occupied by both republics. Under the current government of Bachelet, particularly with Jorge Burgos as Minister of Interior, it has increased repression, stigmatization, discrimination and criminalization against the Mapuche, particularly against those communities that support territorial political, economic, cultural and autonomy and self-determination claims,. With significantly increased military arms purchasing and police officers presence in Mapuche area's as well as a repeated rhetoric criminalizing Mapuche government officials and the discretionary use of the Patriot Act. The government's refusal to enter into any constructive dialogue with Mapuche leaders serves only to compound this problem.

Chile prohibits CONADI (National Indigenous Development Corporation) to acquire land for communities that are actively fighting for the return of what historically belongs to them, fragmenting and stigmatizing these communities in an attempt to divide between "violent" and "peaceful". The emphasis of the government has been the criminalization and militarization of the area as a form of social control. The police, with full support from the government, enjoys impunity for the violation of fundamental human rights. The government ignores repeated national and international calls to address the conflict as a political problem.

Mapuche territorial claim and HLFFDP .

Successive democratic governments have concentrated their efforts on the extension for 20 years of DL 701 on Forest Development, implemented by the military dictatorship in 1974, and a tax payment of 55 million dollars. However, the results of evaluations of this policy conclude that 69.8% of the subsidies provided by the decree have favored large and medium sized forest enterprises, particularly the Angelini and Matte group, which control 80% of exports forest country.

The increase of monoculture eucalyptus and pine, to the detriment of native forests and agricultural land, in addition to destroying ecosystems and damage to the environment, has compromised the food security of future generations. High water consumption of monocultures have affected the water balance of the territories, causing shortage of drinking water and generate unemployment, poverty and rural migration to urban centers.

The territorial domain of large forestry companies in the territory of the Mapuche people has intensified the conflict. To safeguard the interests of these companies, the last two governments have invested a considerable sum of money to equip police groups -GOPE (Police Special Operations Group) and DIPOLCAR (Directorate of Police Intelligence of Carabineros) - which are responsible for repressing particularly those communities that are in the process of territorial claim.

Development projects and infrastructure in Mapuche territory.

The construction of high-speed roads to facilitate the transport of forestry companies and landowners have been opposed by Mapuche communities affected. Convention 169 establishes free and informed, prior consent, which is routinely violated by the authorities. The Juan Paillalef community of Cunco is a prime example.The cultural and spiritual heritage of the Mapuche is continually ignored, as in Oak-Carimallin, community of Río Bueno, in which the Ceremonial Center Kintuante tis located, is threatened to be flooded by the construction of the hydroelectric plant Osorno, the Pilmaiken Company SA, whose environmental impact study was approved without participation of affected communities.

Abuse of Power of Police

On February 5, 2016 at 22:00 in Ercilla, Mijael Queipul Carbone and his cousin Juan Queipul, Temucuicui Community members were intercepted in his car by a dozen policemen GOPE. A lieutenant named Riquelme identified him without any explanation was removed from the vehicle and beaten on the head and other parts of your body with punches, kicks and blows from rifle along with racial slurs. After hours of torture the police took note injury Collipulli Hospital, where they were examined in the presence of police. They were then taken to the police station Collipulle accused of "aggression and abuse to police work."

The February 10, 2016, eight peasants, including a minor, were tortured by the BEPGs and other personnel in the town DIPOLCAR Puerto Choque. The villagers complained that they were tied hand and foot, interrogated, accused of committing crimes and savagely abused, including racial slurs. The tortures were practiced field open from 11:00 am to 16:30 'said one of the victims. They were taken to the Hospital of Cañete where, in the presence of the police, were examined. They were then taken to the police station Cañete and charged with "illegal possession of weapons" and "theft" of timber. independent witnesses indicate that vehicles peasants were empty, corroborated by photographs taken immediately after the burning of vehicles by police, two of the farmers sprayed with benzene police detention.

Lican Melinao Hugo, 35, is a member of the "Rodrigo Melinao" community in Ercilla. On October 2, 2014 in the evening he was shot in the leg outside his home by unknown. He was taken to hospital in Temuco. The police presumed that he participated in an act of violence occurred in another part of the region and was chained to the table, according to the medical report of Temuco and procedure sheet No. 374 of 03 October, 2014 October 7, 2014 , he was accused of fire, threats and attempted murder against the police, applying the law of the State Homeland Security and transferred to Remand Centre Angol. At present he is under house arrest and precautionary measures. The police come to your home at any time of day or night every day or two to three days to sign. Mr. Melinao has received death threats by unknown. Your home has been burned twice, and what is worse, his brother Rodrigo was killed on August 6, 2013, no one has been brought to justice for it.

On 15 September 2010 police raided his home, arrested him and was taken to the police station Collipulli.On the way he was threatened with death and tortured in the Malleco river, submerging his head in water.One of the policemen was pointing a gun his head, firing a shot into the air at the ear, breaking the iceberg.Mr. Melinao was formalized by the prosecutor Cesar Shibar Diaz, who requested a sentence of ten years in prison, accusing him of having masterminded the burning of a bus, he spent 6 months in detention and there was no evidence he was acquitted in July 2011. it was not compensated.

12 February 2016. Around 11am started a brutal raid on the community of Temucuicui, by plainclothes police, followed by GOPE of police and a helicopter. The police showed no warrant. As sequence policing virtually all the villagers were attacked and injured in various treaties consideration. Pedro Millanao Queipul, 68 years old, wanted to ask the reasons for the raid, but was shot at close range. He was taken to the office of Ercilla and referred to the hospital in Victoria, where noted 50 pellets and bullet lodged in his back.

Recommendations

- We requested the visit ***in situ*** of the Special Rapporteur on torture and other cruel, inhuman or degrading punishment, in order to meet with victims in order to ensure the following:

  - Respect the principles of medical ethics relevant to the role of health personnel in the protection of prisoners and detainees, victims of torture and Other Cruel, Inhuman or Degrading treatment in accordance with Principle 2, Resolution 37/194 of 18 / 12/1982 adopted by the UN General Assembly;

  - Require the Chilean government to immediately cease all acts of repression, torture and other inhuman and degrading treatment, carried out by the police, and DIPOLCAR, GOPE against Mapuches;

  - Ask the government to conduct a thorough investigation into the allegations of racism and other abuses of human rights;

Demand that the government of Chile meets all its obligations to the international laws to which it is legally bound.

Enlace Mapuche Internacional, Comunidad Juan Paillalef., an NGO without consultative status, also shares the views expressed in this statement.

United Nations A/HRC/31/NGO/145

General Assembly

Distr.: General
25 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 1
Organizational and procedural matters

Joint written statement* submitted by New Humanity, a non-governmental organization in general consultative status, Associazione Comunita Papa Giovanni XXIII, Dominicans for Justice and Peace - Order of Preachers, International Organization for the Right to Education and Freedom of Education (OIDEL), Mouvement International d'Apostolate des Milieux Sociaux Independants, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-03012(E)

Please recycle

Mainstreaming Human Rights and the Right to Development in the implementation of the 2030 Agenda for Sustainable Development

Associazione Comunità Papa Giovanni XXIII (APG23) and the co-signing NGOs welcome the initiative of the Human Rights Council to discuss on its Annual high-level panel on human rights mainstreaming, the topic "The 2030 Agenda for Sustainable Development and human rights, with an emphasis on the right to development".

The 2030 Agenda for Sustainable Development, adopted at the UN summit in New York in September 2015, is truly of unprecedented scope and significance. Its 17 Sustainable Development Goals comprise an ambitious blueprint for a world that leaves no one behind.

In contrast with the MDGs that were mainly considered targets for developing countries, with funding provided by developed countries, the 2030 Agenda is founded on universal implementation, recognising that poverty and inequalities today hit every country.

The new agenda moves from a model of charity to one of justice, based on the inherent dignity of people as human rights-holders, domestic governments as primary duty-bearers, and all development actors sharing common but differentiated responsibilities taking into account variations in national situations.

From a human rights perspective, the goals and targets for the most part stop short of using explicit human rights language. On the other hand, the preamble of the document says clearly that the agenda "is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law and is grounded in the Universal Declaration of Human Rights, international human rights treaties, the Millennium Declaration and the 2005 World Summit Outcome Document. It is also informed by other instruments such as the Declaration on the Right to Development".

Indeed, the Agenda for Sustainable Development has incorporated the transformative vision of the Declaration on Right to Development since it aims at realising a comprehensive, people-centred development based on the respect of human rights, a fairness in the distribution of wealth and benefits through a renewed global partnership, and the creation of an international and national enabling environment for sustainable development, social justice and lasting peace that address the root causes of inequities and existing structural obstacles.

According to the new agenda, all the above mentioned aims should follow the principles of participation, non-discrimination, indivisibility of human rights, accountability, equality of opportunities between men and women as well as the respect for the sovereignty of peoples over all natural wealth and resources and the right to self-determination of peoples. These principles are all well elaborated in the Declaration on Right to Development.

The question is: will the implementation of the 2030 Agenda for Sustainable Development lag behind as is the case with the Right to Development? We hope not. If adequately implemented, the Agenda, and especially goal 17, will provide a new impetus for realizing the right to development and will have a significant impact on the enjoyment of human rights by everyone, everywhere.

Getting consensus on such a broad development agenda was an achievement in itself, but the real work starts now for it remains a responsibility of Member States and all the other development actors to mainstream human rights, including right to development, in the means of implementation as well as in the choice of adequate indicators for monitoring the implementation of goals and targets.

The long process of developing the 2030 Agenda for Sustainable Development has been very participatory and inclusive, with satisfactory results and compromises. Similarly, the monitoring for the implementation of the new agenda has to be participatory and inclusive, carried out at national, regional and international level, and focusing on both the policy and budgetary efforts of governments alongside development outcomes. Integration of meaningful

institutions and systems to ensure human rights accountability of all development actors is crucial. Civil society will have a great role to play in the monitoring process.

While states remain the primary duty-holder in development, all development actors, including third-party states, the private sector and international financial institutions have to be made responsive and accountable for achieving and not undermining global goals.

APG23 and the co-signing NGOs welcome the explicit reference to the UN Guiding Principles on Business and Human Rights in the Agenda.
In fact, Governments have a duty to protect human rights through the proper oversight and regulation of private actors, especially of business and private financial actors, to guarantee in practice that they respect human rights and the environment, including in their cross-border activities. No government should allow its territory to be used for illegal or criminal activities elsewhere, such as tax evasion, depositing assets obtained through corruption, environmental crimes or involvement in human rights violations, no matter the perpetrator.

Effective accountability architecture will be critical for the full implementation of the Sustainable Development Goals (SDGs). As proposed in the UN Secretary General's Synthesis Report[1], there should be a universal review process built on "*national ownership, broad participation and full transparency*." The universal review process should function in close relationship with national and regional review processes.

The global High Level Political Forum (HLPF) has already been mandated by Member States to build on existing reviews and existing reporting mechanisms, and this should include systematically integrating existing reports and recommendations generated by international human rights mechanisms that are relevant to the SDGs. Incorporating reports and recommendations from the Human Rights Council's Universal Periodic Review (UPR), the human rights treaty bodies, and Special Procedures will be essential. Moreover, the general principles guiding the follow-up and review processes at global, regional and national levels should be based on the human rights principles of universality, participation, accountability, non-discrimination and equality.

The human rights relevance of the 2030 Agenda will also depend on the choice of concrete indicators that should refer to and require disaggregated data to be meaningful for monitoring its implementation.

The report of the Inter-Agency and Expert Group on Sustainable Development Goal Indicators[2] that will be presented at the 47th session of the Statistical Commission in March 2016 contains global indicators that are also useful for gauging the realisation of human rights, including the right to development. For example, disaggregated data on the percentage of population covered by social protection floors can be found among the indicators for eliminating poverty. The indicator "Number of ILO conventions ratified, by type of convention" is explicitly measuring progress on labour rights and decent work.

Other indicators are very interesting when compared to the criteria and operational sub-criteria for the implementation of the right to development under discussion at the Open Ended Intergovernmental Group on Right to Development of the Human Rights Council. In this regard, the OEIWG on RTD should speed up the finalisation of the criteria and operational sub-criteria and can play a great role on how the RTD framework could facilitate effective implementation of future Sustainable Development Goals (SDGs).

Mainstreaming human rights in the 2030 Agenda for Sustainable Development means also that Governments should oblige, with the pre-existing human rights legal norms, standards and political commitments to which they have already voluntarily agreed.

In relation to Official Development Assistance (ODA), developed countries must fulfil the commitment to reach the target of 0.7% of GNP as well as the target of 0.15 to 0.20 per cent of gross national product for ODA to the least developed countries.

---

1 The Road to Dignity by 2030: Ending Poverty, Transforming All Lives and Protecting the Planet- Synthesis Report of the Secretary-General On the Post-2015 Agenda
2 E/CN.3/2016/2

Governments should also assess the human rights impact beyond their borders of their policies and agreements in areas such as environment, trade, investment, aid, tax, migration, intellectual property, debt, weapons trade and military cooperation, monetary policies and financial regulation.

Finally, we would like to raise a serious concern in regard to the first negative signals given by some States at the dawn of the implementation of the 2030 Agenda for Sustainable Development. A clear example is the issue of migration.

The 2030 Agenda recognises the positive contribution of migrants for inclusive growth and sustainable development. It calls on full respect for the human rights and humane treatment of migrants, refugees and displaced persons while highlighting the necessity to meet the special needs of people living in areas affected by complex humanitarian emergencies.

With the Sustainable Goal 10, the international community committed to ensuring equal opportunities through the elimination of discriminatory laws, policies and practices, while **facilitating orderly and safe human migration and mobility**.

In this unprecedented era, where conflicts and persecutions around the world have forced more than 60 million people to flee their homes, where an unprecedented number of refugees and migrants has clearly demonstrated to be ready to set out on a dangerous and uncertain journey in order to seek asylum in Europe, the whole international community has been shamefully missing the opportunity and the duty to respond to those globally agreed commitments.

Europe and the rest of the world, which do have the instruments to respond to this crisis, have let the feeling of compassion and solidarity be replaced so far by internal political interests and deceptive fear.

It is now time to show that the ambitious plan of the 2030 Agenda for Sustainable Development of creating a more equal and inclusive world for all, corresponds to a real and authentic will.

United Nations A/HRC/31/NGO/146

General Assembly

Distr.: General
22 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Maarij Foundation for Peace and Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02654(E)

Please recycle

HUMAN RIGHTS SITUATION IN MYANMAR

The process of transition of government following the landslide victory by Aung San Suu Kyi's National League for Democracy (NLD) has been moving forward. Despite some positive developments nationally in the current transition period, the situation in Arakan remains stalled for the most part; The Government of Myanmar has reportedly stepped up the persecution of Rohingya in Arakan. There has also been an upsurge in isolated incidence of violence and killing of Rohingya by Myanmar police and extremist Rakhine groups.

However, there is a transition of Government in Burma/Myanmar with Aung San Suu Kyi's NLD coming to power in April 2016. The new parliament with NLD majority has just started this month. This is a very crucial time for Rohingya people in international advocacy for mounting pressure on the new Government to address the humanitarian, human right, and political issues faced by Rohingya.

LATEST DEVELOPMENT IN ARAKAN

New Government policy on Rohingya childbirth in Arakan

While the persecution of Rohingya Muslims by the Government of Myanmar continues, Myanmar police in Arakan has stepped up the human right violations against Rohingya. Since early 1990s, the Military and the military-dominated USDP Government has been using its notorious NASAKA Forces (renamed BGP) to eliminate Rohingya population from Arakan.
While forced relocation and expulsion of the Rohingya from their home villages in Arakan remain a top strategic move by the Government, prevention of childbirth in Rohingya families has recently emerged as a centerpiece of the policy. While the decades-old two-child policy (only for Rohingya) has been aggressively enforced in many target locations in Arakan, BGP has reportedly devised a new strategy of exclusion of the newborns in Rohingya households. It has recently taken effect in BGP Sector 1-8 in Maungdaw and BGP Sector 9 in Buthindaung. Previously, birth of a child in Rohingya household was required to report to NASAKA through submission of application via office of the Government-appointed Chairman of the village tract council (*Chei Ywa Kaungsi*). Beginning from January 11, 2016, BGP has reportedly tightened the childbirth reporting process. The following documents are required for Rohingya when reporting childbirth in Rohingya households:

1. The birth of the child must be certified by a nurse from the Government Clinic or Hospital (*currently no Rohingya patient is accepted in Government Clinic or Hospital; There are no private or public healthcare facilities in proximity to most Rohingya villages in Maungdaw and Buthidaung Townships; almost all child-delivery in Rohingya households are through private Rohingya midwives or elderly women in the locality*).
2. Testimonies from two adjacent neighbors that the child was born to the applicant family.
3. A letter of testimony from the Chairman (*a non-Rohinya, in most cases*) of the village tract that the birth was given by the applicant parents.
4. A copy of marriage permission issued by Government official to the parents of the child.
5. Completed birth data form issued by the BGP.
6. Letter of acknowledgment from LAWAKA (Township Immigration Office) that an application for addition of the newborn to the household list (*Eintownsu Sayin*) has been made by the family.
7. A letter of acknowledgment from the Township Police Department that the birth has been reported to the Police Department.
8. Evidence of both parents of the child being from the same household family list.
9. A second form (issued by the BGP) must be signed by the parents, testifying that all the information is accurate and all the criteria have been met; otherwise severe penalty (unspecified) will be imposed.

Raid of Rohingya Homes and Checking Household List

BGP forces have also resumed the household list checking operation in Rohingya areas in Maungdaw and Buthidaung following the process set up by former NASAKA, including night time surprise raid of Rohingya homes checking the number of household members and the household list. Recently, number of family members' group photos and

residency documents have been reportedly confiscated. Currently, Rohingya household members are required to bear a card with a ribbon around the neck. The card must display the serial number of the family member from the household list. It is facing stiff resistance from the Rohingya community that has resulted in widespread beating and arrests for non-compliance.

NEW OPPORTUNTIES FOR FINDING A SOLUTION

The longstanding persecution Rohingya Muslims by the Military-dominated Government of Myanmar has always been the primary strategy to eliminate Islam in Myanmar in a stepwise strategy with the first step of elimination of Rohingya from Arakan. However, taking the new political development into account, there is new opportunity for Rohingya people while Aung San Suu Kyi's NLD is forming a new democratic government following the landslide victory by NLD in recent national election. Currently, there is a positive environment likely to emerge that could pave the way to intensive engagement of the international community with the new Government of Myanmar. The engagement with NLD could lead to development of a roadmap aiming at short and long-term outcomes in coordination with Rohingya leadership in diaspora. Arakan Rohingya Union is developing a strategic plan of engagement with the NLD-led Government of Myanmar in coordination with the international community.

RECOMMENDATIONS

The current period of transition of the Government in Myanmar is a crucial time for Rohingya people. The international advocacy for Rohingya cause should mount pressure on the new Government to address the humanitarian, human right, and political issues faced by Rohingya people. Arakan Rohingya Union provides the following recommendations to the international community to demand the Government of Myanmar:

1. Provide international relief workers unfettered access to all IDP camps and Rohingya villages.
2. Immediately and unconditionally repatriate all the IDPs to their original homes in Arakan.
3. Reinstate the basic human rights of Rohingya through immediate removal of the regional policy (only for Rohingya), particularly the restriction of movement, infringement upon freedom of religion, infringement upon right to marry, denial of healthcare, police brutality, and numerous other violations.
4. Permanently cease raiding Rohingya homes by the BGP (formerly NASAKA) and checking household list with family members.
5. Allow Rohingya high school graduates to seek higher education in colleges and universities Myanmar.
6. Enforce rule of law and take legal actions against those engaging in hate speech.
7. Devise a roadmap for reinstatement of Rohingya ethnicity and citizenship without further delay.
8. Include Rohingya leadership in diaspora and in the country as partner in dialogue with the Government of Myanmar in devising a roadmap.
9. Fully cooperate with the international community in infrastructure development for the advancement of Rohingya and other ethnic groups in Arakan in socio-economic, healthcare, education, and cultural arena.
10. Take concrete steps for prevention of human trafficking from Arakan to destinations in Southeast Asia.

United Nations A/HRC/31/NGO/147

General Assembly

Distr.: General
22 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Associazione Comunita Papa Giovanni XXIII, Company of the Daughters of Charity of St. Vincent de Paul, Congregation of Our Lady of Charity of the Good Shepherd, International Catholic Child Bureau, World Union of Catholic Women's Organizations, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02655(E)

Please recycle

The commercial maternal surrogacy violates human dignity

Associazione Comunità Papa Giovanni XXIII and the other co-signing NGOs take note of the Report published by the Special Rapporteur on sale of children, child prostitution and child pornography A/HRC/31/58.

Violence against children is often subtle and hidden, but especially for this reason, it has to be further denounced and opposed.

The widespread phenomenon of commercial maternal surrogacy is a new example of violence against children, a violence that often is not even reported because children are voiceless and therefore they cannot claim for their rights.

In this regard, and for the reasons below, we ask members States:

1) to resolutely condemn the phenomenon of commercial maternal surrogacy, because it violates children's human rights and human dignity (of natural mothers / surrogate mothers and children that are born through this process);

2) to ban this practice at international level.

It's already stated, in art. 11 of the Vienna Declaration and Programme of Action, that:

"Everyone has the right to enjoy the benefits of scientific progress and its applications. The World Conference on Human Rights notes that certain advances, notably in the biomedical and life sciences as well as in information technology, may have potentially adverse consequences for the integrity, dignity and human rights of the individual, and calls for international cooperation to ensure that human rights and dignity are fully respected in this area of universal concern."

More recently, Pope Francis has reiterated, speaking to businessmen and politicians at World Economic Forum 2016 in Davos, that: "Man must guide technological development, without letting himself be dominated by it."[1].

With the European Parliament resolution of 17th December 2015 (2015/2229 INI[2]) – paragraph 115 -, Europe, too, expressed a clear censure of this practice: "Condemns the practice of surrogacy, which undermines the human dignity of the woman since her body and its reproductive functions are used as a commodity; considers that the practice of gestational surrogacy which involves reproductive exploitation and use of the human body for financial or other gain, in particular in the case of vulnerable women in developing countries, shall be prohibited and treated as a matter of urgency in human rights instruments".

Nowadays the commercial maternal surrogacy phenomenon represents a serious threat to the respect of human rights and human dignity of all people, particularly of those new-borns that are selected, commissioned and paid for, as if they were objects.

Medias and lobbies try to convince the public opinion that we are facing a scientific and social progress, to the extent of defending the right to parenthood regardless of the means used to achieve this objective.

There is a tendency to defend the assumption that what is desired, as well as what is technologically achievable and buyable becomes legitimate and legal for all rich people.

---

[1] Message of his holiness Pope Francis to the executive president of the world economic forum on the occasion of the annual gathering in Davos-Klosters (Switzerland) 30.12.2015

[2] European Parliament resolution of 17 December 2015 on the Annual Report on Human Rights and Democracy in the World 2014 and the European Union's policy on the matter (2015/2229(INI))

As a matter of fact the real motivating force of this phenomenon is defending the procreative industry: a global procreative market where new-borns are chosen from catalogues and eugenically selected according to the buyers' requests. They are therefore treated as goods.

In the last five years we have witnessed an increase in the number of clinics and agencies proposing this practice - especially in developing countries- as a normal possibility open to rich / wealthy couples.

We are witnessing a process of women's degradation and the use of their bodies as a simple children's production mean. Maternity is not longer seen as a natural phenomenon, but it is contaminated by an economic-financial prospective based on the service provision-payment mechanism; the new-born becomes the object of a legal contract and, as such, it is picked in a catalogue, ordered and purchased.

Paying the price at birth, only after a medical examination aimed at verifying the absence of "flaws and defects" makes the child more similar to a factory good than to a human being.
The so desired, planned, selected and "wrapped" child, becomes only an item purchased by their intended parents that, in this way, fulfil a wish that otherwise would remain unsatisfied.

In this way, the newborn becomes only an item to be ordered, assembled and paid at delivery.

In most cases, the intended parents require for a baby presenting certain characteristics (like a specific skin colour); this implies more lab procedures in vitro fertilization before obtaining the desired embryo to be implanted in the womb of the surrogate mother; consequently, all the embryos that do not match the requirements are discarded.

Moreover, if the numerous medical visits, which surrogate mothers are subject to, reveal the eventual risk of malformation, the couple that asked for surrogacy has the right to ask the mother to abort the foetus, and she cannot oppose the decision. By contract, the intended parents have the full right to require and obtain the abortion (and then the authorization to kill the foetus), in case malformations are manifested.

Moreover, also children with disabilities are persons whose life should be protected since their conception.
On the contrary, the right to life is explicitly denied to a disabled foetus carried by a surrogate mother, and the surrogate mother herself is not allowed to continue the pregnancy even if she wanted to.
The baby comes to life only because he/she is the planned response to a desire that otherwise would remain unsatisfied.

The logic of "being useful" triumphs over the simple logic of "being"[3].

Furthermore, an underpinning principle of commercial maternal surrogacy is to avoid bonding between the surrogate mother and the newborn. To this end, breastfeeding is not allowed, since it would promote emotional attachment between the child and the surrogate mother, regardless of the fact that such a connection already exists since she hosted and fed the foetus throughout the nine-month gestation period.
Such prohibition prevents infant from being breastfed, neglecting child's best interest and the World Health Organization (WHO) recommendations, according to which mothers shall breastfeed their newborn during the first six months of life.

No consideration is given to the damages provoked by early separation of a new-born from the woman who has been responsible for his/her carrying and delivering; no one seems to be concerned with the need to respect and protect the right of every child – including the one born via surrogacy - to know the biological mother or the woman who carried the pregnancy until delivery; finally, no one really considers how traumatic it might be for the eventual other children of the surrogate mother to participate in the different stages of pregnancy, and then discover she gave away the new-born for exclusively economic reasons. Reproduction becomes a purely commercial affair to which everything is sacrificed.

As clearly stated by several laic associations, "Substitute motherhood makes the child a product with an exchange value, so that the distinction between a person and a thing is cancelled out.[4]".

[3] Encyclical Letter " Laudato Si' " of the holy father Francis on care for our common home; paragraph 69

This practice is not therefore admissible, not only for moral or ethical reason, but also especially because it violates the human rights of all the persons involved, in particular the ones of the newborn.

It is time to take action at international level.

Civil society, not only the "faith-based organisations" which we belong to, asks to members States the elaboration, adoption and effective implementation of an international convention for the abolition of surrogate motherhood.

Today we ask to the Human Rights Council to promote a resolution that decisively condemns the phenomenon of commercial maternal surrogacy and ban this practice at international level, since it violates children's human rights and human dignity.

---

[4] http://abolition-gpa.org/charte/english/

United Nations A/HRC/31/NGO/148

General Assembly

Distr.: General
22 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 8
Follow-up and implementation of the Vienna Declaration and Programme of Action

Written statement* submitted by the Maarij Foundation for Peace and Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02656(E)

Please recycle

Sudanese national dialogue, submitted by Maarij for Peace and Development, a voluntary non-governmental organization with an ECOSOC status within the United Nations

Maarij Foundation for Peace and Development is pleased to present to the Human Rights Council the measures undertaken by the Government of the Republic of Sudan in the framework of the National Dialogue, which was launched last October. All the opposition parties were involved in the national dialogue and the authorities decided to stop the war and achieve national unity and a willingness to turn the cease-fire set formerly a two-month halt to uphold a permanent one and to put the nation above any partisan differences and allow the opposition parties to exercise political activity and allow freedom of expression and the release of political prisoners and the promotion of freedom of expression and media, the government has renewed its call for all the opponents to join the dialogue.

The government has also pledged for a permanent ceasefire and ask the other parties to do the same and to stop the fighting in order to allow the political parties and civil society organizations from exercising their public activities without interference and restrictions. Also invitations were sent out to media and press in an effort to promote freedom of expression and to enable citizen to contribute to the success of the national dialogue.

In addition, the authorities also decided to release all political detainees who were not involved in criminal charges in the public right.

A committee named "7 +7", was charged to coordinate the national dialogue. This committee includes seven of the opposition forces and the same number of partner in power, political parties. This committee revealed that a meeting with President Omar al-Bashir will be held by the end of February, to deliver a progress report of the state of the dialogue and the recommendations of the final committees in preparation for holding of a General Conference.

The Assistant of the President stated that the National Dialogue arrived to its final stage and revealing the occurrence of full agreement on most issues, and expected that the General Assembly and mediators do not need to stop on certain issues because the agreement is comprehensive, pointing out that 99% of the committees have completed their work and some of them handed over the recommendations, noting that interlocutors in the Friendship Hall have made a great effort and put blocks upon which can be built the foundation of the future of Sudan.

He added that the government's efforts to bring stability and peace, whether in Darfur or regions. He showed his confidence for reaching political agreement to lay down their arms, stressing that there is no alternative to it only through dialogue and that the outcome of the National Dialogue and community dialogue are decisions of the Sudanese people and the government will work to implement them. He also praised the efforts of Khartoum State and the High Committee for National dialogue in demanding all to lay arms and to join the dialogue and also to provide an opportunity for all citizens who are not a member of any political party to give their opinions and ideas about the future of Sudan.

In his speech to the Sudanese Center for Press Services, the Committee Chairman, Ibrahim Onur Sudanese, said that the committee discussed a number of themes that is to determine the economic problem and the policies of the economic sector, the equitable distribution of resources, policies of the productive sectors, institutional reform, human development, scientific research, industry knowledge and the private sector and investment.

A member of the Governing Issues Committee within the dialogue conference expected that the results of the dialogue will lead to a lasting peace, a concrete improvement in the Sudanese way of live and a breakthrough in the freedoms. He also revealed that an imminent meeting of the General Assembly for dialogue to discuss forming a national consensus government.

Recommendations:

The efforts of the Sudanese government to bring peace, to stop the fighting, to make the participation of all political factions in the governing of the country possible and promotion the rights of the citizen, are worthy of support.

We recommend your respected Council to consider the efforts of the Sudanese government and to call for the parties abstaining to sit at the dialogue table and join the National Dialogue.